

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:15cv442-FDW**

JOHTIA LUWANZIEA BARNETTE,)
)
 Petitioner,)
)
 vs.)
)
 RICHARD L. NEELY,)
)
 Respondent.)
 _____)

ORDER

THIS MATTER is before the Court on Petitioner Johntia Luwanziea Barnette’s motion to proceed in forma pauperis (“IFP”). (Doc. No. 2.) The IFP motion was filed with Petitioner’s pro se Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254.

Federal law requires that a petitioner seeking habeas review of his state conviction and/or sentence in federal district court pay a filing fee in the amount of \$5.00 or be granted leave to proceed without prepayment of fees and costs. The petitioner must provide the court with an affidavit of indigency, and “a certified copy of the trust fund account statement (or the institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint.” 28 U.S.C. § 1915(a)(2).

Petitioner’s affidavit of indigency/IFP motion indicates that he is not employed by the prison. It also indicates that Petitioner receives monthly gifts of cash from his spouse and members of his church. Additionally, he pays \$35.00 per month from his account for a correspondence course. (Doc. No. 2.)

The trust fund account statement submitted by Petitioner supports the statements in his affidavit of indigency/IFP motion. Beginning on March 14, 2015 and ending on August 18,


2015, Petitioner's trust fund statements show regular monthly deposits ranging from \$100.00 to \$140.00. Even with paying for the correspondence course, Petitioner has only depleted his trust account twice, at the end of July 2015 and on August 18, 2015. With only a few exceptions, he otherwise has maintained balances well in excess of \$5.00. (Doc. No. 2.)

Based upon its review, the Court finds that Petitioner has sufficient funds to pay the \$5.00 filing fee. Petitioner's IFP motion shall be denied, and he shall be required to pay the filing fee before his case may move forward.

IT IS, THEREFORE, ORDERED that Petitioner's motion to proceed in forma pauperis (Doc. No. 2) is **DENIED**.

IT IS FURTHER ORDERED that Petitioner shall have 14 days from entry of this Order to pay the \$5.00 filing fee to the Clerk of Court. Failure to pay the filing fee shall result in dismissal of Petitioner's § 2254 habeas Petition.

Signed: September 29, 2015



Frank D. Whitney
Chief United States District Judge

